

INDIANA SUPREME COURT COURT IMPROVEMENT PROGRAM



BASIC GRANT ANNUAL PROGRAM ASSESSMENT REPORT October 1, 2009-September 30, 2010

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I. INTRODUCTION

This annual program assessment report is being submitted in accordance with the United States Department of Health and Human Services, Administration for Children, Youth and Families program instruction ACYF-CB-PI-07-09. During this reporting period, Court Improvement Program Basic Grant funds were used to provide sub-grants to support local services, programs and projects designed to improve the safety, well-being and permanency of children and families involved in the child welfare system.

II. SERVICES, PROGRAMS AND PROJECTS SUPPORTED WITH COURT IMPROVEMENT PROGRAM BASIC GRANT FUNDS

Court Improvement Program sub-grants. During this reporting period, the Court Improvement Program approved the following sub-grant applications:

Allen Superior Court, Family Relations Division. Funds will be used to continue the Mental Health Specialty Track Program for Dependency Cases established in 2007. This program provides specialized services to families involved in Children in Need of Services (“CHINS”) cases whose mental health issues played a part in them coming before the court. The program has the capacity to serve twenty (20) families at a given time. The criterion for participating in this program is that a parent or child in the family has a diagnosis of bipolar disorder, schizophrenia, major depression, MT/DD, or a personality disorder that was a factor in their referral to the court on abuse or neglect charges. The identified families receive intensive mental health services provided through a collaborative effort between the court, a local mental health center and the Department of Child Services.

The goal of this program is to expedite permanency on the cases that involve mental health issues by providing both facilitation and Family Group Decision Making services to these families early in the case. To that end, review hearings are held every three months, rather than every six months. At the three month review hearing cases are referred to Family Group Decision Making to develop a permanency plan instead of waiting until the six month review. The Court also appoints a GAL and CASA volunteer to each of these cases to ensure that the children’s best interests are fully considered from all perspectives. These cases are staffed monthly by a mental health specialist, DCS case manager, CASA and GAL to ensure that the needs of the family are being address in a timely manner and that services are being coordinated between the agencies.

Bartholomew County Juvenile Court. Funds will be used to purchase and install equipment to display a video explaining the CHINS Initial Hearing advisements and the CHINS facilitation process. Parents will be given an individualized time to appear prior to their scheduled Initial Hearing to view the video in a private room within the courthouse. The privacy should aid in the ability to watch this video without distraction.

Clark Superior Court 1. Funds will be used to establish a CHINS Family Treatment Drug Court for parents or guardians who admit they have a drug/alcohol problem. The goal of the Family Treatment Drug Court is to increase the rate of successful reunification in CHINS cases where parental substance use/abuse is a factor.

Participants accepted into the program will be required to complete a substance abuse treatment evaluation and all recommendations deemed necessary by the treatment agency. Participants will also attend a minimum of four AA/NA meetings, maintain regular contact with court staff, submit to random drug testing and attend weekly court appearances. Sanctions will be administered for any violations which result in contempt.

Children may be returned to the care of the parent/guardian after 90 days of sobriety, evidenced by clean drug screens. Successful discharge from the program can be obtained only after completing a minimum of six (6) months and compliance with all recommended treatment services.

Elkhart Circuit Court, Juvenile Division. Funds will be used to purchase a new court recording system. The current recording system is outdated and requires significant effort to extract any information. Termination of Parental Rights (“TPR”) appeals have increased significantly over the past three years and the outdated equipment has been extremely difficult to use when preparing transcripts for appeals. The new recording system will reduce the cost of preparing transcripts.

Fulton Circuit Court. Funds will be used to purchase software and equipment to allow the Court to issue advisement of rights to parents and children in CHINS cases via power point presentation. This equipment will allow the Court to spell out at each hearing the expectations of the participants. This will result in improved communication for all parties involved in the case.

Grant Superior Court 2. Funds will be used to purchase and install video conferencing equipment for use in CHINS and TPR cases. Grant Superior Court 2 is a general jurisdiction court, handling 100% of the CHINS and TPR cases along with approximately one-third of all cases filed in the county.

At the 2010 Annual Juvenile Judges Conference, the Department of Child Services reported that Grant County ranks 82 out of 92 counties in CHINS case length (572 days), and that in the first quarter of 2010 only 1 out of 3 TPR cases were concluded within 180 days from the date the TPR petition was filed. The video conferencing capability will help ensure all parties are available and prepared for scheduled court hearings and will help avoid idle court time caused by delays in transporting incarcerated parents and children who are located outside Grant County.

It is expected that more timely hearings and present and prepared parties will help ensure timely permanency for these children.

Indiana Supreme Court, Family Court Project. Funds will be used to support local family court projects that have a particular focus on CHINS cases (e.g., CHINS mediation) or programs which include CHINS cases in a one-judge one-family or information sharing model. Including CHINS cases in a systematic model of case coordination leads to better outcomes and improved permanency for children because judges in those programs have

access to information regarding all of a family's pending litigation and can therefore make more informed decisions regarding the best interest of the child.

Johnson Circuit Court. Funds will be used to continue the pre-hearing facilitation program for CHINS and TPR cases established in 2008. The goal of the program is to reduce the number of contested hearings, encourage the development of customized dispositional goals and service options earlier in the process, and to help move the parties beyond the legal formalities of the case and focus on reconciliation and permanency.

Marion Superior Court, Juvenile Division. Funds will be used to continue the pre-hearing mediation and facilitation program for CHINS cases established in 2008. The goals of this program are to decrease the number of contested fact-findings in CHINS cases, to achieve compliance with the statutory deadline of sixty (60) days to adjudication; to increase the understanding of families of the CHINS legal process; to achieve more timely permanence for children and to decrease the number of CHINS cases that go on to TPR.

Porter Circuit and Juvenile Court. Grant funds will be used to provide facilitation services in CHINS cases. The goal of the program is to impact and reduce the case processing time a child and his or her family is involved with the CHINS process.

Tippecanoe County Superior Court 3. Funds will be used to continue the court mediation and facilitation program established in 2002. The program provides mediation/facilitation services in dependency cases and includes facilitation of case conferences, permanency planning conferences, and extended family conferences.

Vanderburgh Superior Court. Funds will be used to continue the CHINS parent drug court program established in 2003.

III. OVERALL PROGRESS TOWARDS THE GOALS DELINEATED IN THE BASIC GRANT STRATEGIC PLAN

A. Collaboration between the Courts and the Department of Child Services with regard to the Child and Family Service Reviews.

Participate in the Statewide Assessment. This activity has been completed. The Court Improvement Program grant administrator and four trial court judges participated in the 2007 Statewide Assessment. This participation included attending meetings, participating in conference calls and assisting with the drafting of the assessment report. The collaboration between the Courts and the Department of Child Services continued throughout the Child and Family Service Review ("CFSR") process.

Inform all trial court judges of the results of the CFSR, particularly the PIP when it is completed. James Payne, Director of the Department of Child Services and Jerry Milner, Vice President of Child Welfare Practice at the Center for the Support of Families presented the CFSR findings at the Annual Juvenile Judges Conference in June 2008.

Indiana was determined not to be in substantial conformity with any of the seven CFSR outcomes, and in substantial conformity with only three of the seven systemic factors. As a result, Indiana was required to develop a Program Improvement Plan ("PIP") to address all areas of non-conformity.

Details of the PIP were shared with Child Welfare Improvement Committee on May 1, 2009 and with the Court Improvement Program Executive Committee on August 17, 2009.

Implementation of PIP. The Court Improvement Program has been collaborating with the Department of Child Services on the implementation of four (4) PIP benchmarks. The first meeting on these benchmarks was held in July 2009. The Court Improvement Program and the Department of Child Services have met regularly on these benchmarks throughout the PIP.

Identify any changes in legislature that might be suggested as a result of the CFSR. There have not been any changes in legislature identified as a result of the CFSR.

Identify any changes in court rules or court practices that might be suggested as a result of the CFSR. There have not been any changes in court rules or court practices identified as a result of the CFSR.

Educate judiciary on changes in DCS policy or practice as a result of CFSR. James Payne, Director of the Indiana Department of Child Services informed the judiciary of changes in DCS policy and practice related to permanency that have been implemented as a result of the CFSR at the Annual Juvenile Judges Conference held on June 24-25, 2010.

- B. **Continued Collaboration on the IV-E Review.** This activity has been completed. Indiana's IV-E foster care eligibility review took place January 26-30, 2009. The Court Improvement Program grant administrator attended the entrance and exit conferences. The preliminary findings were shared with the Juvenile Justice Improvement Committee of the Judicial Conference of Indiana and the Court Improvement Program Executive Committee.
- C. **Collaboration Regarding House Enrolled Act (HEA) 1001, legislation that significantly changes child welfare funding and juvenile court procedures.**

Participation by representative juvenile judges and the Department of Child Services in legislative meetings and on the language of the bill. This activity has been completed. Representative juvenile judges and the Department of Child Services participated in legislative meetings during the 2008 legislative session.

Collaborative Efforts with the Department of Child Services to work out plans and procedures for implementation of the legislation and follow-up training and developing uniform orders for judges. This activity has been completed. The Indiana Judicial Center, Department of Child Services, judges and other affected stakeholders, with the support of the Court Improvement Program, collaborated to develop and implement procedures and coordinate training events for implementation of HEA 1001. The Benchbook Committee

worked with staff of the Department of Child Services to create standardized court reports and court orders.

Continued monitoring, evaluation and revision of policies, procedures and forms used in the implementation of House Enrolled Act 1001. This has been an on-going initiative since the passage of HEA 1001.

D. Court Improvements Efforts at the State Level.

1) Length of time to finalize adoptions

Determine statewide how many adoptions are pending 6, 12, and 18 plus months after entry of judgment on TPR. This project will be initiated in 2011. The Child Welfare Improvement Committee will evaluate causes for delays in adoption finalization and develop recommendations to help address the delays.

Explore efforts to expedite appeals in other jurisdiction. This activity has been completed.

Collect data regarding the number of appeals from TPR judgments from each county; length of time from filing of notice of appeal through decision handed down; length of time from end of briefing until decision is handed down. This activity has been completed. A comprehensive study on the impact of TPR cases on permanency was conducted in 2008. The study reviewed all TPR cases in Indiana from 2003 through 2007 and investigated methods to improve permanency for children awaiting adoption. It included an in-depth review of all 539 cases appealed during the period, assembling data on filing issues, timing problems, statutory compliance, and other issues. The analysis of the resulting data centered on the average number of days elapsing at critical stages of the appeal and the total time for each appeal to be completed. A forty-two page final report entitled “A statistical Analysis of Termination of Parental Rights Cases 2003-2007” was presented to the Court Improvement Program Executive Committee and the Child Welfare Improvement Committee.

Discussions with the Supreme Court and Court of Appeals regarding the data collected and the need, if any to expedite appeals of TPR’s. This activity has been completed. The results of the comprehensive study on the impact of TPR cases on permanency were presented to the Court Improvement Program Executive Committee and upon its recommendation, to the Indiana Supreme Court Rules of Practice and Procedures Committee.

Ongoing discussions of needed changes, if any to the appellate procedure depending on the review of the data. In January 2009, the Child Welfare Improvement Committee met to formulate tangible recommendations to reduce the time to complete TPR appeals, which would enhance the permanency and well-being of children who find themselves in a state of legal limbo. The recommendations were submitted to the Indiana Supreme Court Rules of Practice and Procedures Committee. In July 2010, the Supreme Court Rules of Practice and Procedures Committee voted to table the proposed rule amendments.

2) Length of time to establish permanency and close case.

Seek 3 counties as Pilot Project Volunteers to conduct monthly file reviews on cases that are older than 12 months. This activity has been completed. The Court Improvement Program and the Department of Child Services collaborated to recruit three counties to participate in the Permanency Pilot Project.

Develop a protocol/form for Review Team to identify cases and establish a regular and routine review of cases. This activity has been completed. The Department of Child Services developed a Guidance Memo for the pilot counties, which developed the groundwork by which the Permanency Pilot Project would operate.

The Permanency Pilot Project was implemented in December 2009. In the spring of 2010, the decision was made to terminate the Permanency Pilot Project. During the few months that the project was operational it was determined that the project was no longer feasible because the Department of Child Services has implemented Regional Permanency Teams in each of the 18 regions that are doing much of the same work as the Permanency Pilot Project. As a result, few cases were being referred to the Permanency Pilot Project.

3) Forum for ongoing meaningful collaboration between the courts, Department of Child Services, and other stakeholders.

Create a multi-disciplinary task force. This activity has been completed. The Child Welfare Improvement Committee was established in 2007. Indiana Supreme Court Chief Justice, Randall Shepard, and James Payne, Director of the Department of Child Services jointly selected the members of the Committee. The Committee is up of juvenile court judges, Department of Child Services staff members, GAL/CASA, foster parent and service provider representatives and Court Improvement Program staff.

The Committee assists with planning Court Improvement Program activities and provides input and guidance on Court Improvement Program grant applications and strategic plans. The committee met five times during this reporting period.

4) Needs of local courts for additional services, programs and projects to ensure good outcomes.

Continue to provide CIP funding to existing sub-grants and to encourage other counties to replicate existing successful projects. This is an on-going activity. Twelve sub-grants were awarded during this reporting period. Of the sub-grants awarded, six awards were for continued funding of existing programs, and six awards were for new programs or projects.

Evaluate the success of the sub-grant initiatives. The Court Improvement Program has not conducted a formal study of the effectiveness of sub grantee programs, however, sub grantees are required to evaluate the effectiveness of their programs and submit the results of their evaluations at the end of their grant term. During this reporting period, the following program evaluations were received:

Allen Superior Court, Family Relations Division. Grant awarded to provide specialized mental health services to CHINS families. Grant period October 1, 2009 through September 30, 2010. This program provides specialized services to families involved in CHINS cases whose mental health issues played a part in them coming before the court.

During the grant period, 30 cases were assigned to the Mental Health program. Seven of those cases reached permanency. The average number of months a case stayed open in the Mental Health program was 7.56 months. Reunification or a change in custody to the other parent or a relative was the most frequently realized permanency plan. There were 24 cases in the control group. Six (6) cases in the control group have reached permanency, with five (5) having permanency of reunification and one having a change of custody. The average number of months for the control group to reach permanency was 12.36 months.

Facilitation has been successful in developing service plans specific to each families' needs. Facilitations resulted in additional services being identified for 36 families and services being eliminated as unnecessary or duplicative for three (3) families. The private bar, CASA, DCS and the local mental health center have all supported this program through participation and cooperation.

Indiana Supreme Court, Family Court Project. Grant awarded to support the Family Court Project. Grant Period, October 1, 2008 through September 30, 2010. During the grant period, the Family Court Project maintained local programs in 23 counties. These programs provide case coordination for families with multiple cases, including CHINS cases, to improve communication and outcomes for families and children. Many of the project counties also offer specialized services in CHINS cases, including CHINS and permanency mediation and bundling of CHINS cases with related custody cases in order to expedite change of custody where that is determined to be in the best interest of the children in accordance with the CHINS case plan.

Johnson Circuit Court. Grant awarded to continue the pre-hearing facilitation program for CHINS and TPR cases. Grant period October 1, 2009 through September 30, 2010. The goal of the program is to reduce the number of contested hearings, encourage the development of customized dispositional goals and service options earlier in the process, and to help move the parties beyond the legal formalities of the case and focus on reconciliation and permanency.

One hundred-fourteen (114) facilitations were conducted during the grant period. The Facilitation Program is expediting the processing of referred cases by approximately four to five weeks. The savings in time spent in case processing is borne out primarily by getting all parties meaningfully involved and prepared earlier in the case process and the development of agreements on adjudication, dispositional goals, and placements.

Since 2008, the CHINS caseload in Johnson county has increased by approximately 40%. In Calendar year 2008, 159 CHINS and 41 TPR petitions were filed. In calendar year 2009, 269 CHINS and 40 TPR petitions were filed. Between January 1, 2010 and September 30, 2010, 216 CHINS and 47 TPR petitions have been filed.

The facilitation project has provided the Johnson Circuit Court with an unparalleled tool with which to respond to the sudden and dramatic spike in CHINS and TPR caseloads. The number of contested court hearings has been reduced, allowing the Court to manage the increase in caseload without a corresponding increase in judicial officer or personnel time.

Marion Superior Court, Juvenile Division. Grant awarded to continue the CHINS pre-hearing mediation and facilitation program and to expand and existing TPR mediation program. Grant period July 1, 2009 through September 30, 2010. The goals of the programs are to decrease the number of contested fact-findings in CHINS cases, to achieve compliance with the statutory deadline of sixty (60) days to adjudication; to achieve more timely permanence for children and to decrease the number of CHINS cases that go on to TPR.

Towards achieving the objective of reducing the number of contested fact-findings, 544 cases have been referred to mediation since the inception of the program in March 2009. There are five (5) classifications for the type of resolutions from such sessions: Full agreement, Partial agreements, No agreements, failures to appear (FTAs) and cancellations. Of those 544 cases, 269, produced a full agreement at the close of the mediation session; 29, produced partial agreements; 132 produced no agreements; 47 were FTAs; and 49 were cancelled and not rescheduled. The percentage of cases that attended mediation is approximately eighty percent (80%). Of the 132 sessions that resulted in no agreement, 102 were eventually resolved without having to go to a contested fact-finding hearing. Seven of these 132 cases have yet to be resolved with or without a fact-finding hearing. This leaves only twenty-three of the 430 sessions actually held that resulted in the parties taking the case through a contested fact-finding hearing. These twenty-three cases represent a mere 5% of the sessions that were actually held.

Moreover, the contested fact-finding hearings for all CHINS courtrooms declined from a high of 944 cases in 2008, to 748 in 2009, to a projected 550 cases for 2010 (based on a case count of 268 hearings through June 8, 2010).

Towards achieving the objective of reducing cases progressing through the termination of parental rights, there are effectively five (5) categories which describe the reason why the case was closed: Reunification with a parent, Informal Adjustment Agreement executed, Dismissed, Guardianship established and Other. Of the 279 cases closed, 153 ended with the child(ren) being returned to the care of a parent after services were successfully completed (Reunification); 63 ended with the DCS and the parent(s) executing an Informal Adjustment agreement to participate in services in a less formal process; 22 were dismissed without the children ever being adjudicated CHINS; 19 ended with the children being placed in the care of a legal Guardian; and 22 ended through another final disposition. The category of "Other" is currently broken down into the following results: Not True Finding (6 cases), Child Aged Out (5 cases), Adoption (5 cases) third Party Custody (3 cases), Death of the Child (1 case), Child placed in the Department of Corrections (1 case), and Another Planned Permanent Living Arrangement (1 cases). The two important conclusions to draw from these data is that from the cases sent through mediation, 88% of all cases end with the children returned into the care of their parents, and fewer than 2% of cases end in children being adopted by non-parents.

There were 79 TPR mediations conducted. Approximately 85% of the mediation sessions resulted in parent(s) signing adoption consents on the day of mediation; 10% signed adoption consents at some point subsequent to the mediation session; and 5% proceeded to trial.

Tippecanoe County, Superior Court III. Grant awarded to continue the court Mediation and Facilitation Program. Grant period, October 1, 2009 through September 30, 2010. During the grant period, nineteen mediation sessions were held. Of the nineteen mediation sessions held, seven sessions were held prior to CHINS adjudication. The outcome of the seven sessions are as follow: Three resulted in full agreements; one resulted in an impasse; one resulted in agreement to dismiss the CHINS (the agreement was rescinded two days later due to new call regarding the child), two were continued.

The remaining twelve mediation sessions were held after the CHINS adjudication. The results of the mediations sessions are as follow: Six resulted in full agreements for custody and parenting time plans that would allow dismissal of the CHINS; one resulted in a visitation plan to be implemented during the CHINS proceedings to move the case towards reunification with mother, and a plan for visitation upon dismissal of the case; one resulted in a visitation plan for implementation in a guardianship proceeding that allowed dismissal of the CHINS proceeding; one resulted in full agreement regarding a parenting plan for implementation in the parent's divorce case that allowed both finalization of the divorce and dismissal of the CHINS proceedings; one resulted in a full agreement as to an adoption that would alleviate the need for a TPR trial; two resulted in full agreement regarding a parenting plan for implementation in the parent's paternity case that allowed dismissal of the CHINS case.

There was one facilitation held during the grant period. Although no agreement was reached regarding a change in the permanency plan, there was a full agreement reached on the objectives that must be met in order to preclude the filing of TPR petition.

5) Dual Jurisdiction Youth

There has been long-standing difficulty in handling cases in which a child is dually adjudicated as a CHINS and as a delinquent or status offender. At the Third National Judicial Leadership Conference on the Protection of Children held in October 2009, the Indiana Team formulated an action plan to study and make recommendations to better coordinate and service these dual jurisdiction youth.

In an effort to foster a collaborative approach to carrying out this action step, a Dual Jurisdiction Task Force was formed. The Task Force is made up of members of the Child Welfare Improvement Committee, juvenile court judges, and DCS staff.

The Task Force has met four times during this reporting period. The mission of the task force is to "to evaluate juvenile data with the intent to improve outcomes for children and families by placing children in the appropriate juvenile code and providing more consistent and effective case management." Dual Jurisdiction Youth has been defined as "regardless of the original entry by circumstances into either the delinquency or dependency system, a dual jurisdiction child is one who qualifies for adjudication under both codes."

The Task Force surveyed judicial officers, DCS staff, public defenders, GAL/CASA, probation officers, and prosecutors to determine how dual jurisdiction cases are currently being handled across the state. The survey results reveal that dual jurisdiction cases are handled differently in each county; that most counties are handling the cases on a case-by-case basis; and probation officers and family case managers do not understand each other's roles in dual jurisdiction cases.

The next steps for the Task Force are to research national models for handling dual jurisdiction cases; to select one or more models to pilot; and to select three counties to pilot the models.

IV. ANY FINDINGS, RECOMMENDATIONS OR REPORTS OF THE STATEWIDE TASK FORCE

There were no findings, recommendations or reports issued by the Statewide Task Force in this reporting period.

V. RESULTS OF ANY ASSESSMENT OF ACTIVITIES FUNDED DURING THE PROGRAM PERIOD

There was no assessment of activities conducted or funded in this reporting period.

VI. CONCLUSION

The Indiana Supreme Court, Indiana Judicial Center, Indiana Department of Child Services, Court Improvement Program, and the Child Welfare Improvement Committee are committed to working together to identify and implement systematic changes necessary to improve the safety, well being and permanency of children in Indiana's child welfare system in the upcoming year.